

REMARKS

Applicants will address each of the Examiner's objections and rejections in the order in which they appear in the Final Rejection of March 11, 2003. A RCE is being filed herewith to ensure entry of this amendment.

Claim Rejections - 35 USC §102

The Examiner has three rejections rejecting claims of the present application under 35 USC §102 as being anticipated by three different references. Previously, Applicants explained why each of these references does not disclose the claimed invention, but instead are directed to a different device for a different use. For at least the reasons discussed therein, Applicants continue to believe that these references are not directed to a system for intraluminal treatment, as recited in the claims, and therefore, do not disclose or suggest the claimed invention.

However, in order to advance the prosecution of this application, Applicants have amended the claims, added new claims and provide the following additional reasons for the allowance of this application.

Rejection of Claims 29-34 Over Nita

The Examiner rejects Claims 29-34 under 35 USC §102 as being anticipated by Nita. This rejection is respectfully traversed.

While Applicants disagree with this rejection by the Examiner, in order to advance the prosecution of this application, Applicants have amended independent Claim 29 to recite a third elongated tube for receiving the first and second elongated tubes and defining a space between the third tube and the first and second tubes, the space comprising a fluid return lumen in fluid

communication with the lumen of the first elongated tube at the distal end thereof, said space not opening to outside said catheter at the distal end thereof. Such a feature is clearly not disclosed or suggested by Nita.

The Final Rejection is not clear as to where allegedly in Nita there is disclosed a third elongated tube for receiving the first and second elongated tubes and defining a space between the third tube and the first and second tubes, the space comprising a fluid return lumen in fluid communication with the lumen of the first elongated tube at the distal end thereof, as originally recited in independent Claim 29. The Final Rejection contends that this feature is disclosed in the reference but does not explain where it is shown. Applicants are forced to speculate as to where this feature is allegedly shown.

Applicants note that Nita discloses fluid outflow apertures (e.g. 50) to permit fluid to flow out of lumen at the distal end of the catheter (see e.g. Fig. 2). Such apertures do not provide a fluid return lumen nor fluid communication between the third tube and the lumen of the first elongated tube at the distal end, as required in Claim 29.

Amended Claim 29 is further distinguishable since Claim 29 now requires that the space not open to outside said catheter at the distal end thereof. This is clearly different than aperture 50 which opens to the outside of the catheter.

Applicants have also added new dependent Claim 41 which recites that the third elongated tube is closed at the distal end. Nita does not appear to be closed at the distal end.

Applicants have added new dependent Claim 42 and independent Claim 44 which recite that the elongated tubes are substantially the length of the catheter. As shown in Figs. 5 and 6 of Nita, Nita does not have three elongated tubes that extend substantially the length of the catheter, but

instead two of the alleged lumens appear to be quite short and only appear at the distal end of the device.

Accordingly, for at least the above-stated reasons, independent Claim 29, the claims dependent thereon, and the new claims are clearly patentable over the cited reference. Therefore, it is requested that this rejection now be withdrawn.

Rejection of Claims 29 and 30 Over Yock

The Examiner also rejects Claims 29 and 30 under 35 USC §102(e) as being anticipated by Yock. This rejection is also respectfully traversed.

The Final Rejection contends that Yock discloses a third elongated tube defining a space for a fluid return lumen in fluid communication with the lumen of the first elongated tube, as required in Claim 29, but does not specify where this feature is disclosed or suggestion in the reference.

Applicants can find in Yock no such third elongated tube with a return lumen in fluid communication with the first elongated tube. Applicants can find nothing in the cited drawings or cited description in the specification from the reference showing a fluid communication between the lumens.

Accordingly, for at least the above-stated reasons, Claims 29 and 30, and the new claims, are clearly patentable over the cited reference. Therefore, it is requested that this rejection now be withdrawn.

Rejection of Claims 29, 30, 35 and 37 Over Weaver

Finally, the Examiner rejects Claims 29, 30, 35 and 37 under 35 USC §102(e) as being anticipated by Weaver. This rejection is also respectfully traversed.

The Final Rejection contends that Weaver discloses a third elongated tube defining a space for a fluid return lumen in fluid communication with the lumen of the first elongated tube, as required in Claim 29, but does not specify where this feature is disclosed or suggested in the reference.

Applicants can find in Weaver no such third elongated tube with a return lumen in fluid communication with the first elongated tube. Applicants can find nothing in the cited drawings from the reference showing a fluid communication between the lumens.

Accordingly, for at least the above-stated reasons, the rejected claims and new claims are clearly patentable over the cited reference. Therefore, it is requested that this rejection now be withdrawn.

New Claims

Applicants are adding new Claims 41-49 herewith, many which have already been explained above. As explained supra, these new claims are allowable over the cited references.

In response to the Examiner's comments, Applicants have added claims that positively recite a treating element. Such an element is not shown or suggested by the cited references (as explained in depth in Applicants' prior response which is incorporated herein by reference). Accordingly, these claims are also patentable over these references.

If any fee is due for these new claims, please charge our deposit account 50/1039.

Conclusion

Therefore, for at least the above-stated reasons, the present application is now in an allowable condition and should be allowed.

If any further fee is due for this amendment, please charge our deposit account 50/1039.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,

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